IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6492 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

DIVISIONAL CONTROLLER

Versus

HARDEVSING NATHUBHA CHUDASAMA

Appearance:

MR MR HARDIK C RAVAL for Petitioner

MR JR NANAVATI for Respondent No. 1

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 23/03/2001

ORAL JUDGEMENT

1. This Special Civil Application under Article 227 of the Constitution is filed by the Gujarat State Road Transport Corporation with a prayer to set aside the award of the Labour Court, Bhavnagar made on 23.3.1988 in

Reference (LCB) No.500 of 1987 whereby the respondent, a conductor, was ordered to be reinstated with 25% backwages.

2. At the time of issuing Rule, no interim relief was granted. The impugned award indicates that the respondent was charged with the misconduct of not issuing tickets after having collected fares from the passengers. After holding a departmental enquiry, the respondent was found to be guilty and dismissed from service. Upon an industrial dispute having come up for adjudication in a Reference under the Industrial Disputes Act, the Labour Court has, upon appreciation of evidence, found that on the fateful day of checking the bus was started very late and within 9 to 10 kms. of its journey, it was checked. The conductor was booking tickets on the road and about 75 passengers were on board. None of the passengers were examined during the departmental enquiry and, according to the respondent, the statements of some of the passengers were written by the reporter in the absence of the respondent. The defence of the respondent was that he was in the process of issuing tickets and he had not collected any fare for the tickets which were not issued. Admittedly, the cash with the respondent was not checked. Thus, the charge of collecting fares for issuing tickets rested only on the statements of the passengers which were written by the reporter. And none of the passengers were ever examined. In these facts and circumstances, a finding of fact is recorded in the impugned order, according to which none of the charges levelled against the respondent were proved by sufficient evidence. The fact that the respondent had not claimed to be wholly unemployed after his dismissal was also considered while awarding 25% backwages. Thus, the impugned award granting reinstatement and backwages at the rate of 25% cannot be faulted on any count or held to be perverse or illegal in any way.

3. In this view of the matter, there is no substance in the petition. Therefore, the same is rejected. Rule is discharged with no order as to costs.

Sd/-

23.3.2001 (D.H.Waghela, J.)

(KMG Thilake)